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Hand Delivered

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Commissioners of Shelby County

Re: Service Contract

Dear Commissioners;

Bearman Golden Gardens, Inc., a Tennessee Not for Profit Corporation, (Project) is seeking to secure an agreement with Shelby County in which it will make payments for services as provided under the exemptions from property taxes section 67-5-207 of the Tennessee Code Annotated (see Exhibit "A"). The Code section provides that housing developed and operated under Section 202 of the Housing Act of 1959 are exempt from property tax without payment of services if there are less than twelve (12) units in the Project. Section 67-5-207(a)(2) provides, if the project contains more than 12 units the Project shall agree to make payments for services rendered by the Governmental Authority such as garbage pickup, police and fire protection. The rule applied in Shelby County on previous 202 Projects was that services were assessed at \$5 per unit. Bearman Golden Gardens is a 56 unit senior housing development developed and is operated under Section 202 of the National Housing Act of 1959 (See Exhibit "B").

Before HUD funded the present Project, sponsors secured letters of government support for the Project (copies of that are attached as Exhibit "C"). Relying on the previous service agreement assessed at \$5 per unit HUD funded the Project.

The nonprofit owner of the Project is an exempt social welfare organization under provisions of the Internal Revenue Code and does not have an income source other than the funds provided by HUD (see Exhibit "D"). Attached as Exhibit "E" is a list of the officer and directors of the Project which serve without compensation. The tenants (elderly) receive housing assistance from HUD along with HUD providing the capital advance funds to develop the project. The nonprofit ownership

corporation is a single entity corporation that exists solely for providing the subject elderly housing, and does not have income other than provided by HUD and the tenants. HUD limits the project units to low income elderly guidelines.

Considering the Project is qualified under the section 67-5-207 as exempt and the exemption is recognized by the State Board of Equalization and,

Considering HUD relied on previous guidelines for services to be \$5 per unit, and HUD structured the Project Grant and funding accordingly and,

Considering the County and City pledged its support for the Project and,

Considering the good of the community is served by the Project.

We respectfully request the County and City to enter into a service contract on the same basis and amount as previously entered into for the previous guidelines of \$5 per unit.

Sincerely,



H. David Lowrance

Exh. B. 1A

67-5-207. Low cost housing for elderly persons. —

(a) (1) Property of Tennessee nonprofit corporations that is used for permanent housing of low income persons with disabilities, or low income elderly or handicapped persons, is exempt in accordance with this section. The property must be financed by a grant under § 811 or § 211 of the National Affordable Housing Act (42 U.S.C. §§ 8013, 12741) or the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11301 et seq.), or be financed by a loan made, insured, or guaranteed by a branch, department or agency of the United States government under § 515(b) or § 521 of the Housing Act of 1949 (42 U.S.C. §§ 1485(b) or 1490a), § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q), §§ 221, 231 or 236 of the National Housing Act (12 U.S.C. §§ 1715l, 1715v, or 1715z-1), or § 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 (42 U.S.C. § 1437f). Eligibility for the exemption under these programs continues so long as there is an unpaid balance on the loan, or in the case of a grant, so long as the project is restricted to use for elderly or handicapped persons or persons with disabilities as defined in the programs. The property must be used as below-cost housing for elderly or handicapped persons or persons with disabilities within the program definitions, who have incomes not in excess of limits established for the enumerated program by the department of housing and urban development (HUD). If a property was approved by HUD for participation in the program without specific low income guidelines, the property may nevertheless qualify for exemption on a pro rata basis, if at least fifty percent (50%) of the low income residents have incomes that would qualify under HUD guidelines for any of the enumerated programs. In such cases the property shall be exempt in the same percentage that low income residents represent of the total occupancy of the property at full capacity, determined as of January 1 each year, on the basis of information supplied to the assessor on or before April 20.

(2) In lieu of any taxes for which a property is granted exemption under this section, the owners of projects that exceed twelve (12) units shall agree to make payments to any county, municipality, metropolitan government, or district for improvements, facilities or services rendered by the county, municipality, metropolitan government or district. In no event shall such payments exceed the estimated cost to provide improvements, facilities, or services so furnished, and in no event shall such payments be required from public housing authorities operating under title 13, chapter 20. Such payment shall not be required from any project occupied prior to January 1, 1990, unless such project was the subject of a pending claim for tax exempt status before the state board of equalization on January 1, 1990. In the latter case, annual payments begun prior to April 30, 1990, shall continue to be made until the project and the recipients of the payments agree to discontinue or revise the payments. Nothing in this section shall be construed to negate any valid agreements concerning payments in lieu of taxes entered into prior to April 30, 1990.

(b) To qualify for such exemption, any such not-for-profit corporation must first be exempt from federal income taxation by virtue of qualifying as an exempt charitable organization or as an exempt social welfare organization under the provisions of the Internal Revenue Code, compiled in U.S.C., title 26, and any amendments thereto. In addition, the not-for-profit corporation shall have charter provisions providing in substance that:

(1) The directors and officers shall serve without compensation;

(2) The corporation is irrevocably dedicated to and operated exclusively for not-for-profit purposes;

(3) No part of the income or assets of the corporation shall be distributed to nor inure to the benefit of any individual;

(4) In the event of dissolution of the corporation or other liquidation of its assets, the corporation's property shall not be conveyed to any individual for less than the fair-market value of such property; and

(5) All assets remaining after payment of the corporation's debts shall be conveyed or distributed only to an organization or organizations created and operated for not-for-profit purposes similar to those of the corporation.

(c) All claims for exemption under this section are subject to the provisions of § 67-5-212(b).

(d) Subject to the general requirements of this section for exemption of federally assisted housing, there shall also be exempted under this section, the property of not-for-profit organizations funded under the HOME Investment Partnerships Program (42 U.S.C. § 12701 et seq.) or funded as a special needs project under the HOUSE program established by Acts 1988, ch. 900, and used as permanent housing for low income and very low income persons with "permanent conditions" within the meaning of the HOUSE program.

(e) Nothing in this section shall be construed to preclude the application of § 67-5-212 to transitional or temporary housing that qualifies as a charitable use of property under that section. [Acts 1973, ch. 226, § 5; 1975, ch. 168, § 1; 1975, ch. 323, § 1; 1983, ch. 122, §§ 1-3; T.C.A., § 67-509; Acts 1988, ch. 1002, §§ 1, 2; 1990, ch. 1009, §§ 1, 2; 1991, ch. 399, § 1; 1992, ch. 652, §§ 1, 2; 1993, ch. 454, §§ 1-3; 1994, ch. 617, § 1; 1994, ch. 645, § 1; 1997, ch. 347, § 1; 2002, ch. 704, §§ 1-4.]